

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD GOSZTYLA,
Plaintiff,

v.

FRENCH, et al.,
Defendants.

No. 2:21-cv-1403-EFB P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in an action brought under 42 U.S.C. § 1983. On November 8, 2021, the court informed plaintiff that he could proceed with a potentially cognizable excessive force claim against defendants French, Pfeifer, and Burnette, *or* he could file an amended complaint in an effort to also state claims against defendants Jones, Moore, and Lamb. ECF No. 7. Plaintiff has elected not to amend his complaint and to proceed only with the claim identified by the court. ECF No. 10.

Accordingly, it is ORDERED that the Clerk of the Court randomly assign a United States District Judge to this action.

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1 Further, it is RECOMMENDED that plaintiff's claims against defendants Jones, Moore,
2 and Lamb be dismissed without prejudice.

3 These findings and recommendations are submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
5 after being served with these findings and recommendations, any party may file written
6 objections with the court and serve a copy on all parties. Such a document should be captioned
7 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
8 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
9 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

10 Dated: December 7, 2021.

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12 EDMUND F. BRENNAN
13 UNITED STATES MAGISTRATE JUDGE
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